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5 **NOT FOR PUBLICATION**

6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

8
9 Bruce Freund; Elizabeth Freund,

10 Plaintiffs,

11 vs.

12 New Century Mortgage Corporation, et al.,

13 Defendants.
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No. CV-09-8034-PCT-FJM

ORDER

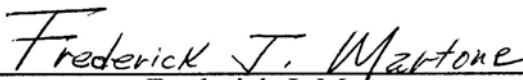
17 The court has before it defendants' motion to dismiss this action (doc. 6). Plaintiffs
18 have not responded and the time for doing so has long since passed.

19 Plaintiffs filed this action in state court alleging claims of wrongful foreclosure,
20 conversion, negligence, negligent misrepresentation, accounting, declaratory relief, and quiet
21 title. The complaint appears to have been filed in an effort to avoid foreclosure on the
22 mortgage on their home.

23 Under LRCiv 7.2(i), if a party "does not serve and file the required answering
24 memoranda . . . such noncompliance may be deemed a consent to the denial or granting of
25 the motion and the Court may dispose of the motion summarily." We also construe
26 plaintiffs' failure to respond to the motion to dismiss as a failure to prosecute this action
27 under Rule 41(b), Fed. R. Civ. P.
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1 Therefore, pursuant to Rule 41(b) and LRCiv 7.2(i), **IT IS ORDERED GRANTING**
2 defendants' motion to dismiss (doc. 6).

3 DATED this 21st day of May, 2009.

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8 Frederick J. Martone
9 United States District Judge
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